IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 1834 OF 1995

1. Shri Vilas Shridhar More & anr. .. Petitioner

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. A.M. Joshi and S.D. Rairkar for petitioner.
Mr. V.S. Gokhale, AGP for respondent nos.1 and 2.

CORAM : B. H. MARLAPALLE &
D. B. BHOSALE,JJ.

Date : March 24, 2006.

P.C.:

1. The petitioners came to be appointed as teachers in the junior college run by the respondent no.3-society i.e. G.B. Vader High School and Junior College at Pali in Raigad District with effect from the academic year 1986-87 (first petitioner) and in the year 1987-88 (second petitioner). Both of them claimed that they had acquired the qualification of B.Ed. from Kanpur in as much as they had passed the B.Ed. Degree Course from the Rashtriya Patrachar Sansthan, Kanpur and on this basis the respondent no.3 had appointed them as Assistant Teachers in the High School and Junior College run by it. Consequently, their appointment was approved vide the order dated 21/9/1990 by the Deputy Director of Education. By the impugned communication dated 7/3/1995 the respondent no.3 under the orders of the Deputy Direction of

Education sought to recover an amount of Rs.57,471/- from each of the petitioners towards the excess payment made to them for the period from June 1988 to February 1995.

2. There is no dispute that the petitioners did not possess the B.Ed. qualification or its equivalent as set out in the MEPS Rules 1981 framed under the MEPS Act, 1977. The Circular issued by the State Government on or about 24/7/1990 so as to deal with the cases like the petitioners is very clear. By the Government orders dated 21/8/1989 the concerned Institutions were called upon to remove the Assistant Teachers like the petitioners (with qualifications of "Shikshalankar" from Kanpur) but the State Government thought it fit to reconsider the said issue on account of the various representations made to it and by the order dated 24/7/1990 it direct, (a) the teachers with "Shikshalankar" qualification shall be given two years time to obtain the B.Ed. Degree from a recognised University, (b) their service will not be discontinued while they would be given two years time to complete the B.Ed. qualification and (c) they would be paid the salary in the payscale applicable to the untrained teachers from the initial date of appointment.

3. The petitioners were given the payscale of

Rs.2000-3500 by treating them as trained teachers from the year 1988 and in any case they acquired the qualification of B.Ed. only in the year 1992 by taking the benefit of the orders issued by the State Government on 24/7/1990 and, therefore, the recoveries sought to be made were justified. At the first place they could not have been appointed as Assistant Teachers and retained in service. However, they were protected by the Government orders dated 24/7/1990 and if regards be had to the said orders, the recoveries sought to be made cannot be challenged on any ground. The order of the Supreme Court in the case of Sahib Ram vs. State of Haryana and ors. reported in 1995 Supp (1) SCC 18 is not applicable in the instant case.

4. In the premises, the petition fails and the same is hereby dismissed. Rule discharged. No costs.

(D.B. Bhosale,J.) **(B.H. Marlapalle, J.)**